

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**ALLSTATE PROPERTY CASUALTY  
INSURANCE COMPANY**

**PLAINTIFF**

**V.**

**NO. 4:12-CV-00090-DMB-JMV**

**JOYCE HUNTER, et al.**

**DEFENDANTS**

**ORDER OF DISMISSAL WITH PREJUDICE**

On December 10, 2014, this Court, acting on a stipulation of dismissal submitted by all parties, entered a final judgment dismissing this action without prejudice. Doc. #53. On February 8, 2016, after more than a year of inactivity, the parties filed an Agreed Stipulation of Dismissal with Prejudice. Doc. #55. The Court interprets this second stipulation as a Rule 60(b) motion for relief from a final judgment. *See Kozak v. Fedex Kinko's, Inc.*, No. 3:07-cv-187, 2008 WL 682580, at \*1 (E.D. Va. Mar. 7, 2008) (district court has discretion to convert dismissal without prejudice to a dismissal with prejudice pursuant to Rule 60(b)); *see also Campbell v. Assurance Co. of Am.*, No. 3:11-cv-83, 2012 WL 1583306, at \*2 (M.D. Ga. May 1, 2012) (altering Rule 41(b) dismissal pursuant to Rule 60(b)).

Rule 60(b)(6) of the Federal Rules of Civil Procedure grants a court authority to “relieve a party ... from a final judgment [for] any ... reason that justifies relief.” Upon consideration, the Court concludes that the parties’ joint request to convert the dismissal without prejudice to a dismissal with prejudice justifies relief under Rule 60(b)(6). *See generally McCall-Bey v. Franzen*, 777 F.2d 1178, 1185 (7th Cir. 1985) (“So the dismissal was without prejudice – though of course one or more of the parties can still request the district court under Rule 60(b) ... to

correct the judgment to make it with prejudice ....”).<sup>1</sup> Accordingly, the Final Judgment entered on December 10, 2014, Doc. #53, is set aside and this matter is now **DISMISSED with prejudice**.

**SO ORDERED**, this 9th day of February, 2016.

/s/ Debra M. Brown  
**UNITED STATES DISTRICT JUDGE**

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<sup>1</sup> The Court notes that, unlike *Franzen*, the parties are seeking *relief* from a final judgment, not *correction*. There is no question that the initial judgment without prejudice was properly entered.